

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:083. Holding and intrastate transportation of captive cervids.

RELATES TO: KRS 150.010(42), 150.290, 150.725, 150.740

STATUTORY AUTHORITY: KRS 150.025(1), 150.280, 150.720, 150.730, 150.735

CERTIFICATION STATEMENT: The Kentucky Department of Fish and Wildlife Resources, pursuant to statutory authority to promulgate administrative regulations to carry out the provisions of KRS Chapter 150 as established in KRS 150.025 and as an independent department of state government within the meaning of KRS Chapter 12 as established in KRS 150.021(1), promulgated by the Commissioner with approval of the Commission in accordance with KRS 150.010(1), does hereby certify this administrative regulation is promulgated in compliance with Section 8 of 2025 RS HB6.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to regulate the buying, selling, or transportation of wildlife. KRS 150.280 requires the department to promulgate administrative regulations relating to propagating and holding of wildlife. KRS 150.720 requires the department to promulgate administrative regulations pertaining to the importation and holding of cervids, including privately-owned and farm-raised cervids. KRS 150.730 authorizes the department to issue or deny permits to hold captive cervids. KRS 150.735 authorizes the department to promulgate administrative regulations relating to the expansion of captive cervid facilities and the transfer of permits. This administrative regulation establishes the requirements for holding and intrastate transporting of cervids in Kentucky.

Section 1. Definitions.

(1) "Approved laboratory" means:

(a) The National Veterinary Service Laboratory in Ames, Iowa; or

(b) Any other laboratory approved by the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

(2) "Captive cervid" means a cervid that is privately owned, born, and raised in captivity, and not considered wildlife as established in KRS 150.010.

(3) "Captive cervid permit" means a permit issued by the Kentucky Department of Fish and Wildlife Resources that is required to hold cervids in captivity and does not include shooting preserves as permitted under 301 KAR 2:041.

(4) "Cervid" means a member of the family Cervidae.

(5) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(6) "Flop tag" means a commercial plastic ear tag used to identify livestock.

(7) "Line post" means a post in a fence that is not a corner or end post.

(8) "Noncommercial captive cervid permit" means a permit issued prior to March 1, 2016 that allows a person to possess captive cervids that are not intended for sale, offered for sale, traded, or bartered.

Section 2. Fencing and Holding Requirements.

(1)

(a) An exterior fence shall be at least eight (8) feet above ground level for its entire length, and consist of twelve and one-half (12 1/2) gauge woven wire, fourteen and one-half (14 1/2) gauge high-tensile woven wire, wood planks, or chain link.

(b) A single or double strand of barbed wire strung across the top to bring the total fence height to eight (8) feet shall be acceptable.

- (c) Strands of barbed wire shall not be more than six (6) inches apart and shall not be more than five (5) inches from the top of the fencing as established in this subsection and subsection (2) of this section.
 - (d) Spacing between vertical wires shall not exceed six and one-half (6 1/2) inches for captive deer or species whose adult size is less than 400 pounds and twelve (12) inches for captive elk or species whose adult size is 400 pounds or more.
 - (e) If two (2) woven wire fences are combined, one (1) above the other, the woven wire fences shall be overlapped at least six (6) inches and firmly attached to each other at intervals no greater than three (3) feet.
 - (f) The fence bottoms shall be installed to provide not more than three (3) inches of ground clearance.
- (2) Right-of-way.
- (a) The fence right-of-way shall be cleared for a distance of six (6) feet on each side.
 - (b) If the fence is a property boundary fence, the fence right-of-way shall be cleared for a distance of six (6) feet on the inside only.
 - (c) If dead timber with a height greater than the distance of the fence exists on the permittee's property, it shall be felled.
- (3)
- (a) Fence posts shall extend a minimum of eight (8) feet above the ground and shall be of sufficient strength to maintain the fence integrity.
 - (b) Pine wood posts shall be treated.
 - (c) Posts shall be set to a minimum depth of three (3) feet.
 - (d) T-posts shall be installed according to manufacturers' specifications.
- (4) Line posts.
- (a) Wooden line posts shall be a minimum of four (4) inches in diameter and shall not be spaced more than twenty-four (24) feet apart.
 - (b) Steel pipeline posts shall:
 - 1. Be a minimum of two and three-eighths (2 3/8) inches in outside diameter;
 - 2. Weigh a minimum of three (3) pounds per foot; and
 - 3. Not be spaced more than twenty-four (24) feet apart.
 - (c) Metal "T" posts shall be a minimum of one and one-quarter (1.25) pounds per foot and shall be spaced no more than twenty (20) feet apart.
 - (d) If the woven wire is not high tensile, there shall be a wooden or steel pipe post every sixty (60) feet.
- (5) Corner and end posts.
- (a) Wooden corner and end posts shall be a minimum of five (5) inches in diameter.
 - (b) Steel pipe corner and end posts shall be a minimum of two and seven-eighths (2 7/8) inches in outside diameter.
 - (c) Corner and end posts of other materials shall be of sufficient strength to maintain the fence integrity.
- (6) Gates shall be:
- (a) Substantially constructed to meet the specifications of the fence; and
 - (b) Equipped with at least one (1) latching and one (1) locking device.
- (7)
- (a) Swinging water gaps and stream crossings shall be constructed to equal or exceed the standards of the fence.
 - (b) Crossings shall be adequate to prevent ingress and egress during high water.
 - (c) Permissible water gaps are established in subparagraphs 1. through 4. of this paragraph:
 - 1. Swinging gates constructed to match the contour of the stream supported by cable or hinge (larger water gaps);
 - 2. Pipe with swinging barrier (larger water gaps);

3. Pipe with fixed mesh barrier (smaller water gaps); and
 4. Heavy gauge woven barrier contoured to fit the gap (smaller water gaps).
- (8) If topographic, natural, or other conditions exist that enable cervids to pass through, under, or over the fence, the permittee shall be required to supplement the fence with additional, stronger or higher fence posts, special grading, additional wire to increase fence height, or other measures to prevent escape.
- (9) Maintenance. The fence shall continuously be maintained in a game-proof condition.
- (10) A noncommercial captive cervid permit holder shall:
- (a) Separate all adult males and females with fencing as established in this section;
 - (b) Not allow breeding, either by natural or artificial insemination;
 - (c) Not introduce any additional captive cervids to the facility;
 - (d) Complete and submit to the department a Captive Cervid Annual Reporting Form by February 28 of each year;
 - (e) Report any cervid deaths to the department by telephone at 800-858-1549 within forty-eight (48) hours; and
 - (f) Submit tissue specimens of all captive cervids that die in the permit holder's facility to an approved laboratory for CWD testing.

Section 3. Capture and Handling Facilities.

- (1) Except as established in subsection (2) of this section, each captive facility shall have a squeeze chute or crush that facilitates inspection, handling, or capture of an individual animal.
- (2) If a permittee's facility does not have the handling or capture facilities established in subsection (1) of this section, the alternative shall be a dart gun or tranquilizer that immobilizes the animal.

Section 4. Tagging.

- (1) Captive cervids shall be identified in accordance with the Kentucky Department of Agriculture's Chronic Wasting Disease program requirements established in 302 KAR 22:150.
- (2) Except as established in subsection (3) of this section, captive cervids over six (6) months old shall be uniquely identified with a plastic flop tag in at least one (1) ear that is clearly visible and identifiable.
- (3) Upon written request, the department shall approve one (1) of the alternatives for plastic flop tags established in paragraphs (a) through (c) of this subsection for bona fide zoos, nature centers, or similar educational institutions:
 - (a) Lip or ear tattoo;
 - (b) Microchip; or
 - (c) Branding.

Section 5. Ingress and Egress.

- (1) The permit holder shall be responsible for immediately capturing or destroying escaped animals upon discovering their escape.
- (2) If the permit holder is unable to capture an escaped animal within forty-eight (48) hours from discovering its escape, the permit holder shall report each escape to the department by telephone at 1-800-858-1549.
- (3) The permit holder shall send a written report to the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Captive Cervid Permits, within ten (10) days, describing what escaped and the reason for the escape.
- (4) The permit holder shall report known ingress of wild cervids into the enclosure by sending a written report to the department at the same address established in subsection (3) of this section.

(5) The department or any peace officer may seize, capture, or destroy escaped animals or those that have ingressed if necessary.

Section 6. Space Requirements.

(1) For species whose adult weight is less than 400 pounds, each individual animal shall be allowed at least 1,000 square feet of space.

(2) One (1) individual animal of a species whose adult weight is 400 pounds or more, shall require at least 1,500 square feet of space, with each additional animal requiring an additional 1,000 square feet of space.

Section 7. Prohibited Species. Except for cervids legally held prior to November 12, 2002, a captive cervid permit shall not be issued for the species established in subsections (1) through (4) of this section:

- (1) Genus *Cervus* spp., except *Cervus elaphus nelsoni*;
- (2) Genus *Axis* spp.;
- (3) Roe deer (*Capreolus capreolus* and *Capreolus pygargus*); or
- (4) Hybrids thereof.

Section 8. Captive Cervid Permits.

(1) Permit application and issuance. An application for a new or renewed captive cervid permit shall be processed in accordance with the provisions of KRS 150.730.

(2) A captive cervid permit shall be valid only for the property and facility identified in the application and that is inspected as established in subsection (11) of this section. A cervid shall not be moved into a new or expanded facility until the facility has been issued a captive cervid permit by the department.

(3) Zoos and other facilities fully accredited by and in good standing with the American Zoo and Aquarium Association shall not be required to obtain or renew a captive cervid permit, but facilities not accredited by the American Zoo and Aquarium Association shall be required to obtain and renew a captive cervid permit.

(4) A captive cervid permit shall be required for a facility owned or leased by a person wishing to hold captive cervids.

(5) A new noncommercial captive cervid permit shall not be issued to a facility after February 28, 2016.

(6) All wild cervids shall be removed from the facility prior to initial inspection.

(7) A permit shall identify the species ~~and numbers~~ of cervids being held.

(8) Duration.

(a) A captive cervid permit shall be valid for one (1) year beginning March 1 through the last day of February and may be renewed annually upon payment of the annual fee and proof of compliance with all applicable statutes and administrative regulations.

(b) A noncommercial captive cervid permit shall be valid for three (3) years beginning March 1 through the last day of February and may be renewed every third year upon payment of the fee and proof of compliance with all applicable statutes and administrative regulations.

(9) A holder of a noncommercial captive cervid permit prior to March 1, 2016, shall be allowed to hold captive cervids for the life of the animals, after which the permit shall not be valid.

(10) Transfers. A captive cervid permit may be transferred if an existing and currently permitted facility is sold or leased to a person or entity who shall maintain and operate the facility pursuant to KRS 150.735(3).

(a) The original captive cervid permit holder who is transferring the permit shall be compliant with all provisions of this administrative regulation prior to transfer.

(b) Prior to transfer of the permit to a new owner or lessee, the facility shall be inspected for compliance as provided by subsection (11) of this section.

- (c) The purchaser or lessee of the facility shall:
 - 1. Apply for transfer of the existing captive cervid permit on a department Captive Cervid Permit Transfer Application form;
 - 2. Attach a copy of the deed indicating change of ownership or the lease agreement between the parties conducting the transfer; and
 - 3. Send all application materials to the department at #1 Sportsman's Lane, Frankfort, Kentucky 40601, ATTN: Captive Cervid Permits, within thirty (30) days after the inspection.
- (d) A transferred captive cervid permit may be renewed by the new owner or lessee completing a Captive Cervid Permit Application.
- (e) A noncommercial captive cervid permit shall not be transferred.
- (11) Inspections.
 - (a) Before a captive cervid permit or noncommercial captive cervid permit is issued, renewed, or transferred, each facility or facility expansion shall pass an inspection that certifies it is in compliance with all applicable statutes and administrative regulations.
 - (b) Upon completion of a facility or facility expansion, or if a facility is to be sold or otherwise transferred, the permit applicant or holder shall notify the department to request an inspection that shall be conducted within thirty (30) days of receipt of the request.
 - (c) Each facility shall be inspected annually after issuance of a captive cervid permit or noncommercial captive cervid permit to certify and document that the facility is in compliance with this administrative regulation.
 - (d) A Captive Cervid Facility Inspection Form shall be completed by a department law enforcement captain, who shall then forward the original copy to department headquarters for processing.
- (12) Revocation or suspension.
 - (a) The department shall issue a notice of violation in the form of a certified letter to a person who is not in compliance with this administrative regulation, 302 KAR 22:150, or a Kentucky statute pertaining to the holding of captive cervids.
 - (b) The department shall suspend the permit of a person who has received a notice of violation until the person complies with this administrative regulation and applicable statutes.
 - (c) The department shall issue a citation to a person who has failed to comply with this administrative regulation or applicable statutes within sixty (60) days from the date of the notice of violation.
 - (d) If convicted of a violation of this administrative regulation, the department shall:
 - 1. Revoke the permit; and
 - 2. Seize the captive cervids.
 - (e) A person who has a captive cervid permit revoked or suspended shall not, without the written approval of the department:
 - 1. Transfer or expand the facility; or
 - 2. Sell, offer to sell, trade, transport, hunt, or slaughter captive cervids that are housed in that facility.
- (13) Appeal procedures. An individual whose request for a permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.
- (14) Expansions.
 - (a) A facility may be expanded and shall conform to the fencing specifications established in this administrative regulation.
 - (b) Facility expansions shall be adjacent and connected to the currently permitted facility.
 - (c) Cervids shall not be introduced into the expanded portion of a facility until that expansion has been inspected and approved by the department as established in

subsection (11) of this section.

Section 9. Origin and Disposition of Captive Cervids.

- (1) Cervids obtained from the wild shall only be held by a permitted wildlife rehabilitator pursuant to 301 KAR 2:075.
- (2) Captive cervids shall not be released into the wild except for wild-born cervids released by a permitted wildlife rehabilitator pursuant to 301 KAR 2:075.
- (3) Wild-born cervids held in captivity for rehabilitation purposes shall not:
 - (a) Be housed in the same pen or otherwise housed in direct physical contact with cervids that were born in captivity; and
 - (b) Be housed in a pen that has ever housed cervids that were born in captivity.

Section 10. Intrastate Movement of Cervids.

- (1) Before a person may move a captive cervid within the state, an authorization number shall be obtained from the Kentucky Department of Agriculture pursuant to 302 KAR 22:150.
- (2) A person transporting cervids shall have the authorization number issued by the Kentucky Department of Agriculture, and if applicable, the required health papers, in possession while transporting cervids.

Section 11. Selling Cervids. A permit holder who holds a captive cervid permit may sell live cervids, parts thereof, or products produced by captive cervids, if those animals were not obtained from the wild in Kentucky.

Section 12. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "Captive Cervid Permit Application", 2025~~[2016]~~ edition;
 - (b) "Captive Cervid Permit Transfer Application", 2025~~[2016]~~ edition;
 - (c) "Captive Cervid Facility Inspection Form", 2016 edition; and
 - (d) "Captive Cervid Annual Reporting Form", 2017 edition.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Department of Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:
 - (a) https://fw.ky.gov/Wildlife/Documents/Captive_Cervid_Permit_Application_Form.pdf for the "Captive Cervid Permit Application";
 - (b) <https://fw.ky.gov/Wildlife/Documents/CaptiveCervidPermitTransferForm.pdf> for the "Captive Cervid Permit Transfer Application";
 - (c) <https://fw.ky.gov/Wildlife/Documents/CaptiveCervidInspectionForm.pdf> for the "Captive Cervid Facility Inspection Form";
 - (d) <https://fw.ky.gov/Wildlife/Documents/Captive-Cervid-Ann-Rpt-Form.pdf> for the "Captive Cervid Annual Reporting Form".

*Approved by the Fish and Wildlife Commission
RICH STORM, Commissioner*

APPROVED BY AGENCY: June 27, 2025

FILED WITH LRC: June 27, 2025 at 2:45 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 29, 2025, at 11:30 a.m., at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing

will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes legal methods of holding and intrastate transportation of captive cervids.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to establish guidelines for the holding of captive cervids.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to KRS 150.010(41), 150.290, 150.725, 150.740, 164.772 since they establish the legal authority to breed and sale captive cervids, and establish permits for the holding of captive cervids.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This regulation establishes the manner in which captive cervids may be held in captivity or moved within the state.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment removes any reference to fees and replaces them with a reference to the fee regulation, 301 KAR 5:022, and similarly updates any applicable material incorporated by reference. Also, this amendment removes the need to report the number of captive cervids being held in captivity.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to allow future fee changes to be promulgated in 301 KAR 5:022 without the need for promulgating matching amendments to this regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

KRS 150.025(1) grants authority for the department to promulgate regulations necessary to carry out the purposes of KRS Chapter 150. KRS 150.175 sets out licenses and tags to be sold by the department. KRS 150.195 requires the department to establish administrative regulations to provide for the control, design, issuance, distribution, and other matters related to licenses and permits issued by the department.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment will consolidate any associated fees into a single fee regulation, 301 KAR 5:022.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

All individuals who which to obtain the associated license or permit.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the

change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

No action will be required to comply with the amendments, however, the individuals would need to look to 301 KAR 5:022 for the regulation which establishes the cost of the associated license or permit. Also, applicants will no longer need to report on the number of cervids held since that is only required for the Department of Agriculture records.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

There will be no cost to comply with the amendments to this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Compliance with these amendments will allow individuals to obtain the associated license or permit.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There will be no cost to implement these regulatory amendments initially.

(b) On a continuing basis:

There will be no continuing costs to implement these amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Fish and Game Fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There will be no increase in fees or funding necessary to implement these changes.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish any fees or directly or indirectly increase any fees. Any associated fees are addressed in 301 KAR 5:022.

(9) TIERING: Is tiering applied?

Tiering is not applied as all individuals will need to look to 301 KAR 5:022 for the regulation which establishes the cost of the associated permits.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 150.010(41), 150.290, 150.725, 150.740, 164.772

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

This amendment is not expressly authorized by an act of the General Assembly but is promulgated pursuant to KRS 150.025 and 150.195.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

The promulgating agency is the Kentucky Department of Fish and Wildlife Resources. No other state agencies are affected.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:These amendments will not result in any additional expenditures for the department.

For subsequent years:These amendments will not result in any additional expenditures for the department.

2. Revenues:

For the first year:These amendments will not result in any change in revenues for the department.

For subsequent years:These amendments will not result in any change in revenues for the department.

3. Cost Savings:

For the first year:These amendments will not result in any cost savings for the department.

For subsequent years:These amendments will not result in any cost savings for the department.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

No local entities should be affected by these amendments.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

No other entities should be affected by these amendments.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:N/A

For subsequent years:N/A

2. Revenues:

For the first year:N/A

For subsequent years:N/A

3. Cost Savings:

For the first year:N/A

For subsequent years:N/A

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

This amendment will not have any significant fiscal impact.

(b) Methodology and resources used to reach this conclusion:

This amendment does not modify any fees or require affected entities to expend funds to comply with the amendments beyond those incidental to normal operations.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(13):

This amendment will not have a major economic impact.

(b) The methodology and resources used to reach this conclusion:

This amendment does not increase any fees or otherwise create a financial burden to state or local government agencies or to regulated entities.